

## Alcohol and Tobacco Tax and Trade Bureau, Treasury

## § 19.283

### RULES REGARDING CREDITS, ABATEMENT, REMISSION, OR REFUND

#### § 19.266 Claims for credit of tax.

A proprietor may file a claim for credit of tax, as provided in this part, after the tax has been determined, whether or not the tax has been paid. However, a proprietor may not anticipate allowance of a credit or make an adjusting entry in a tax return pending action on the claim.

(26 U.S.C. 5008, 5215)

#### § 19.267 Adjustments for credited tax.

When a proprietor receives a notice of allowance of credit from TTB, including notification of credit for tax on spirits exported with benefit of drawback as provided in part 28 of this chapter, the proprietor will make an adjusting entry and an explanatory statement on its next excise tax return. The proprietor will identify the notification of allowance of credit that authorizes the adjusting entry in the explanatory statement. If the allowable tax credit is greater than the tax due on the excise tax return, the proprietor will apply the balance of the tax credit to one or more following tax returns until the tax credit is exhausted.

(26 U.S.C. 5008, 5062)

#### § 19.268 Allowance of remission, abatement, credit, or refund of tax.

The appropriate TTB officer is authorized to allow claims for remission, abatement, credit, and refund of tax, filed under the provisions of this part.

(26 U.S.C. 5008)

### RULES FOR PUERTO RICAN AND VIRGIN ISLANDS SPIRITS

#### § 19.269 Puerto Rican and Virgin Islands spirits.

(a) The provisions of 26 U.S.C. 5008, authorizing abatement, remission, credit, or refund for loss or destruction of distilled spirits, also apply to spirits brought into the United States from Puerto Rico or the Virgin Islands with respect to the following:

- (1) Spirits lost while in TTB bond;
- (2) Voluntary destruction of spirits in bond;

(3) Spirits returned to bonded premises after withdrawal without payment of tax; and

(4) Spirits returned to bonded premises after withdrawal upon tax determination.

(b) In addition to the information required by § 19.263, claims relating to spirits lost in bond must show the name of the producer and the serial number and date of the formula under which produced, if any.

(26 U.S.C. 5008, 5215)

## Subpart K—Gauging

#### § 19.281 Scope.

This subpart covers gauging, which is the determination of the quantity and the proof of distilled spirits. Topics covered in this subpart include: The general requirements for gauging; when gauges are required at distilled spirits plants; and special rules that apply to the gauges performed at distilled spirits plants. For additional requirements and procedures governing gauging, see part 30 of this chapter, Gauging Manual.

#### § 19.282 General requirements for gauging and measuring equipment.

A proprietor is required to perform periodic gauges of the spirits, wines, and alcoholic flavorings at the plant. A proprietor must have accurate and readily usable gauging and measuring equipment as required by this part and part 30 of this chapter. At any time, TTB may require that the proprietor's gauges be performed in the presence of, and be verified by, a TTB officer. In addition, TTB may disapprove the use of any equipment, or the proprietor's means of gauging, if TTB finds that it is not sufficiently accurate or suitable for the gauges and measurements to be made.

(26 U.S.C. 5006, 5204)

### REQUIRED GAUGES

#### § 19.283 When gauges are required.

The proprietor must gauge spirits, wine, and alcoholic flavoring materials when required to do so by the appropriate TTB officer or when the spirits, wine, or flavoring materials are:

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- (a) Produced and entered for deposit;
- (b) Filled into packages from storage tanks;
- (c) Transferred or received in bond;
- (d) Transferred between operational accounts;
- (e) Mixed in the manufacture of a distilled spirits product;
- (f) Mingled under § 19.329;
- (g) Reduced in proof before bottling;
- (h) Voluntarily destroyed;
- (i) Removed or withdrawn from bond;
- (j) Tax determined;
- (k) Returned to bond; or
- (l) Denatured.

(26 U.S.C. 5204, 5559)

### RULES FOR GAUGING

#### § 19.284 Quantity determination of bulk spirits.

(a) *Gauge of spirits in packages.* When determining the quantity of bulk spirits in packages, the proprietor must determine the quantity by weight as provided in part 30 of this chapter.

(b) *Bulk gauge for tax determination.* When determining the quantity of bulk spirits for determination of tax or when performing a production gauge that will be used for tax determination, the proprietor must determine the quantity by weight as provided in part 30 of this chapter or by an accurate mass flow meter. For tax determination purposes, an accurate mass flow meter is a mass flow meter that has been certified by the manufacturer or other qualified person as accurate within a tolerance of plus or minus 0.1 percent.

(c) *Volumetric determination.* Except as provided in paragraphs (a) and (b) of this section, in all other instances when the proprietor is required to gauge bulk spirits in bond, the proprietor may determine the quantity by either weight or volume. When the proprietor determines the quantity by volume, the proprietor must measure the spirits by using:

(1) A tank or bulk conveyance for which a calibration chart is provided, with the calibration charts certified as accurate by persons qualified to calibrate tanks or bulk conveyances; or

(2) An accurate mass flow meter. For purposes of this paragraph, an accurate mass flow meter is a mass flow meter

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that has been certified by the manufacturer or other qualified person as accurate within a tolerance of plus or minus 0.5 percent; or

(3) Another device or method approved by the appropriate TTB officer.

(26 U.S.C. 5559)

#### § 19.285 Proof determination of distilled spirits.

(a) *Proof.* Except as provided in paragraph (b) of this section, when the proprietor is required to gauge distilled spirits, the proprietor must determine the proof in accordance with the procedures prescribed in part 30 of this chapter, Gauging Manual.

(b) *Use of Initial proof.* After a proprietor has determined the proof of distilled spirits in accordance with the procedures in part 30 of this chapter, a proprietor may use the initial determination of proof when required to make a later gauge at the same plant. However, a proprietor must determine the proof again when:

(1) A bottling tank gauge is required by § 19.353;

(2) A gauge for tax determination is required by § 19.226; or

(3) In any case where the proof may have changed.

(26 U.S.C. 5559)

#### § 19.286 Gauging of spirits in bottles.

When gauging spirits in bottles, the proprietor may determine the proof and quantity from case markings and label information if the bottles are full and there is no evidence that tampering has occurred.

(26 U.S.C. 5204, 5559)

#### § 19.287 Gauging of alcoholic flavoring materials.

Generally, alcoholic flavoring material must be gauged when dumped. However, when received from a manufacturer in a closed, nonporous container such material may be gauged by using the proof shown on the container label or a related statement of proof from the manufacturer. When the proof is determined from a label or manufacturer's statement, the proprietor will test a sufficient number of samples to